

**Remarks:**

Claims 25 to 50 are pending in this application.

Claims 25 to 37, 39 to 44 and 46 to 48 have been previously withdrawn.

Claims 38 and 45 are currently amended.

**Priority**

The Office Action states that support for all the sequences recited in claim 45 is not found in US Provisional Application No. 60/404,922 (filed August 22, 2002), but rather support is found in the corresponding PCT application No. PCT/CA03/01323 (filed August 22, 2003). The Office Action further states that the priority date of August 22, 2003 is used for searching for prior art for claim 45. As will be argued in more detail below, claim 45 is submitted to be free of the cited art. Therefore, this issue of the priority date is submitted to be moot, and there appears no need to address this issue at this time.

**Claims Rejections - 35 U.S.C. §. 112:**

Claims 38, 45, 49 and 50 are rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with written description requirement. Specifically, in respect of claim 38, it is stated that the method steps do not impart distinctive structural characteristics to define a product. In respect of claim 45, the recitation "comprising an amino acid sequence" in the preamble, and the recitation "at least one conservative amino acid substitution or deletion" in part (az) are stated to be overly open-ended.

The preamble of claim 38 has been amended to recite "an isolated pleurocidin or hepcidin polypeptide that is not found in winter flounder", and thus provides sufficient definition of the claimed polypeptide. Claim 45 has been amended to recite "comprising the amino acid sequence" in the preamble and to recite "comprising one conservative amino acid substitution or deletion of one amino acid residue" in part (az).

The rejection under 35 U.S.C. § 112 is submitted to be moot in view of amendment of claims 38 and 45.

**Claim Rejections - 35 U.S.C. § 102:**

Claim 45 is rejected under 35 U.S.C. § 102(a) as being anticipated by Patrzykat et al. (Antimicrobial Agents and Chemotherapy, August 2003).

Patrzykat et al. represents the Applicants own publication, and therefore a one year grace period applies in respect of its relevance as prior art. Thus, regardless of whether the priority date for claim 45 is August 22, 2002 or August 22, 2003, or whether Patrzykat et al. was publicly accessible before or after the August 22, 2003 date, the one year grace period that applies to the Patrzykat disclosure renders these considerations moot.

Claims 38, 45, 49 and 50 are rejected under 35 U.S.C. § 102(b) as being anticipated by Barrett et al. (US 5,654,276). Claims 38 and 45 are directed to antimicrobial peptides. In contrast, Barrett discloses peptides and compounds that bind to the IL-5 receptor. Barrett does not teach or suggest an antimicrobial peptide. Accordingly, Barrett does not teach each and every element of claims 38, 45, 49 and 50, and therefore the noted claims are free of Barrett.

Claims 38, 45, 49 and 50 are rejected under 35 U.S.C. § 102(b) as being anticipated by Douglas et al. (Developmental and Comparative Immunology, March 2001).

Examiner will kindly note that claim 38 now recites "an isolated pleurocidin or hepcidin polypeptide that is not found in winter flounder" in the preamble and that claim 45 recites "an isolated antimicrobial peptide comprising the amino acid sequence" in the preamble.


The peptides disclosed in Douglas et al. are limited to winter flounder. Furthermore, Douglas et al. does not disclose any of the peptides defined in claim 45. Accordingly, claims 38, 45, 49 and 50 are submitted to be free of Douglas et al.

For at least the above reasons, the pending claims are submitted to be compliant with 35 U.S.C. § 102.

Applicant respectfully requests reconsideration of the application. The Examiner may contact the undersigned should any clarification be required.

Respectfully submitted,

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